United Nations S/2003/435

Security Council

Distr.: General
17 April 2003

Original: English

Letter dated 10 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Republic of Seychelles submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Counter-Terrorism Committee

03-33442 (E) 080503

BEST COPY AVAILABLE

Annex

Letter dated 31 March 2003 from the Permanent Representative of Seychelles to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour of submitting the report of the Government of Seychelles on the implementation of United Nations Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Claude **Morel**
Ambassador
Permanent Representative

Enclosure

Report of the Government of the Republic of Seychelles to the United Nations Counter-Terrorism Committee, submitted pursuant to paragraph 6 of resolution 1373 (2001) of the United Nations Security Council*

27 March 2003

* The annexes to the report are on file with the Secretariat and are available for consultations.

Report of the Government of Seychelles, pursuant to paragraph 6 of resolution 1373 (2001) of the United Nations Security Council

INTRODUCTION

The Government of the Republic of Seychelles expresses its unequivocal condemnation of terrorism and it believes that no cause can ever justify the use of violence as a means of settling disputes, or legitimization of the destruction of innocent lives.

The Government of Seychelles recognizes that terrorism constitutes a challenge to all States and it is committed to implement effective and appropriate mechanisms to combat the scourge of terrorism.

It expresses its readiness to cooperate with the United Nations in combating international terrorism, in accordance with the rules of international law and the basic axioms of national sovereignty, recognizing the distinction between terrorism on the one hand, and resistance to foreign occupation on the other.

This Report represents the commitments and cooperation of the Government of Seychelles to implementation of the United Nations Security Council Resolution (UNSCR) 1373 adopted on the 28th September 2001 and other relevant resolutions.

PARAGRAPH 1. DECIDES THAT ALL STATES SHALL:
(A). PREVENT AND SUPPRESS THE FINANCING OF TERRORIST ACTS

At present Seychelles has no legislation that specifically prevents and suppresses the financing of terrorist acts.

The Government of the Seychelles is however committed to prevent terrorism and the financing of terrorism and has prepared draft Anti-Terrorism Legislation.

Existing legislation in Seychelles would assist authorities in Seychelles in preventing and suppressing the financing of terrorism.

The Anti-Money Laundering Act 1996 criminalises and defines money laundering and designates money laundering as an extraditable offence.

Money laundering is defined as engaging directly or indirectly, in a transaction that involves money or other property, that is proceeds of crime; or receiving, possessing concealing, disposing or bringing into Seychelles any money, or other property that is the proceeds of crime, knowing or having reasonable grounds for knowing that the money or the other property is derived or realised, directly or indirectly from any unlawful activity.

This Act also puts an obligation on financial institutions to maintain identification procedures and such record keeping procedures in respect of a business relationship formed with or a transaction carried out by that institution in the course of its business as may be required by the Central Bank.

The Central Bank issued ***Guidance Notes on Anti Money Laundering Procedures for Seychelles Banks and other Financial Institutions*** in March 1998. Reports of suspicious transactions are reported to the Banking Supervision Department of the Central Bank. These reports are analysed by officials at the Central Bank and then forwarded to the Police for further investigation and prosecution if warranted. The Central Bank is able to monitor compliance with the Anti-Money Laundering Act and the Guidelines by on-site inspections of financial institutions.

The Guidelines further provide for training of employees of financial institutions in identification and record keeping procedures and emphasises the obligation to make reports to the Central Bank.

The Central Bank of Seychelles is a member of the Eastern and Southern African Group of Banking Supervisors and adopts the guidelines established by the Basle Committee. As members of this association Central Banks in the region cooperate in the exchange of information on supervisory and regulatory issues.

The Central Bank disseminates list of names of suspected terrorists and the US Executive Orders to all financial institutions with a directive for them to check their records of account holders and report any relationship to the Central Bank. To date there has been no report of alleged terrorists holding bank accounts or other facilities in Seychelles.

Financial institutions have been defined in the **Financial Institutions Act** as "any person doing banking business; or (b) a person declared to be a financial institution under section 58 (3) of the Financial Institutions Act." No person has been declared to be a financial institution under section 58(3) to date. Banking business has been given its ordinary meaning of the business of accepting deposits of money from the public...etc.

Financial institutions in Seychelles may be licensed to conduct non-domestic banking business and with prior approval from the Central bank a financial institution carrying on non-domestic banking business may be administered by another financial institution. Non-domestic banking business has been defined as banking business conducted outside Seychelles with persons resident outside Seychelles.

A financial institution exclusively conducting non-domestic business may authorise a person to open a numbered account. Facilities offered to the holders of a numbered account shall extend to current accounts, deposit accounts, securities deposit accounts and safes but shall not extend to credit facilities. A financial institution shall ensure that the identity of the holder of a numbered account is disclosed to only such officers of the institution as the institution may determine. The identity, assets, liabilities transactions or other information of the holder of the numbered account shall, however, be disclosed to the Central Bank or on an order of the Supreme Court made for the purpose of any enquiry or trial into or relating to the trafficking of narcotics and dangerous drugs, **arms trafficking** or money laundering on application by the Attorney General on proof to the satisfaction of the court that the information relating to the identity, assets, liabilities and transactions of the holder is bona fide so required.

A financial institution or any other person who contravenes this section is guilty of an offence and liable on conviction to a fine of R100, 000 and to imprisonment for 3 years.

Certain safeguards exist to protect financial institutions doing non-domestic business from being used by terrorists. Section 44A(3) of The Financial Institutions Act provides that a financial institution conducting non-domestic banking business, shall not, in the conduct of its non-domestic banking business, open an account for a person whose identity is not known to the financial institution.

Further, even though section 38A of the Financial Institutions Act imposes secrecy and confidentiality provisions with respect to the non-domestic banking business of financial institutions the Supreme court may make an order for the production or disclosure to any court, tribunal, committee of inquiry or other authority in Seychelles or elsewhere on an application to that court by the Attorney General and on proof that information is bona fide required for the purposes of any enquiry or trial into or relating to the trafficking of narcotic and dangerous drugs, **arms trafficking** or money laundering.

Application may also be made to the Supreme Court for an order for disclosure of the identity, assets, liabilities, transactions or other information in respect of a depositor of a financial institution doing domestic banking business in Seychelles.

There has been no application made to the Supreme Court for any production orders in relation to any funds of alleged terrorists.

Another safeguard against the use of financial institutions by terrorists is found in the **Financial Institutions (Non-Domestic Banking Business) Regulations** and **the Financial Institutions (Domestic Banking Business) Regulations**. Both these regulations provide that where a financial institution conducting domestic banking business or non-domestic banking business, as the case may be, has reasonable grounds to believe that any holder of any account with that institution or any other person transacting business with that institution is conducting business affairs which are or are likely to be contrary to the laws of Seychelles or are or are likely to be detrimental to the reputation of Seychelles, the financial institution shall forthwith notify in writing that fact to the Central Bank and furnish the Central Bank the full particulars thereof known to the financial institution.

There are six (6) financial institutions licensed to conduct domestic banking business in Seychelles and no financial institution licensed in Seychelles to conduct non-domestic banking business.

Financial institutions in Seychelles have an obligation to inform the Central Bank of any change in the shareholder, officers and directors within twenty days of any change in any financial institution.

Financial institutions conducting domestic banking business or non-domestic banking business must not issue bearer shares and any company that is a shareholder of the financial institution shall not issue bearer shares.

The Central Bank under the provisions of the **Central Bank Act Cap 26** has the power to require any director to furnish to the Central Bank such data and other information as are necessary to perform its functions under the Act. The Central Bank may conduct inspections of financial institutions for the purpose of ascertaining the nature of the business of the financial institution and to ascertain whether the financial institution is complying with the provisions of the Act and any directives issued by the Bank.

The Registrar of Companies regulates client accounts held by accountants, attorneys, barristers and estate agents pursuant to the **Control and Protection of Clients Accounts Act Cap 44**. These persons have an obligation to keep books and accounts as may be necessary to show and distinguish in connection with his business, moneys received from or on account of his clients and the monies received and paid out on account. The books of the accountant, attorney, barrister and estate agents are audited annually.

The Registrar of Companies acting on his own motion, may require the accountant, attorney, barrister or estate agent to produce his books of accounts, bank statements, statements of account, vouchers and other necessary documents for inspection by the Auditor General. This provision may be used to inspect the books of the accountants, attorney, barristers or estate agents when there is suspicion of funds being lodged in these accounts by persons suspected of being involved in terrorism. The penalty for failing to comply with a request of the Registrar is a fine of RS10,000 and imprisonment for five years.

The International Business Companies Act provides for the establishment of international business companies (IBCs). The Seychelles International Business Authority (SIBA) established pursuant to **the Seychelles International Business Authority Act 1994** supervises and regulates the international business companies.

One of the functions of SIBA is to ensure that the international business activities are transacted in conformity with the laws of Seychelles and established norms of good and honourable conduct and to preserve and maintain the good reputation of Seychelles as a centre for international business activities.

International business companies operating in the Seychelles are able to issue shares to bearer. Bearer shares are under review, in compliance with the OECD undertaking in relation to information exchange agreements. The share register is kept at the registered office of the company.

There are at present twelve thousand three hundred (12,300) international business companies operating in Seychelles.

International Trusts have also been established in Seychelles by the **International Trust Act, 1994.** Trustees of international trusts may open an account at a financial institution.

A trustee of an international trust shall not disclose to any person not legally entitled, or be required to produce or divulge to any court, tribunal. committee of enquiry or other authority in Seychelles or elsewhere any information which discloses, inter alia, the name of the
settlor or of any beneficiary.

There is also a provision in the International Trust Act for the court to make an order for disclosure or production of any information or document relating to an international trust for the purpose of an inquiry or trial into or relating to the trafficking of narcotics and dangerous drugs, **arms trafficking**, or money laundering on application by the Attorney General on proof to the satisfaction of the court that the information or document is bona fide so required.

The provisions of the Financial Institutions Act and the Guidelines issued by the Central Bank with respect to the verification of identity of account holders also applies to accounts opened by international business companies and by trustees of international trusts.

As some of the information required for international business companies may not be available the registered agent applying for an account for an international business company would be asked to certify that the applicant is known to him and that the applicant has presented adequate evidence of proper conduct to the registered agent. If the registered agent is in fact a signatory on the account particulars with respect to the registered agent would have to be verified.

In the case of an account being opened by the trustee of an international trust, the financial institution must obtain satisfactory evidence of the identity of the trustee, nominee or fiduciary and the nature of their trustee or nominee capacity or duties. The financial institution must be able to confirm that the source of funds or assets under the trustee's control can be vouched for. As the trustee is unable by law to disclose the identity of the settlor or beneficiary any money received by the trust must be properly identified, the nature of the transaction understood and confirmation made that the payments are made in accordance with the terms of the trust and are properly authorized in writing.

The Exchange Control Act Cap 76 allows the Central Bank of Seychelles to track the existence of foreign currency in Seychelles. Under the provisions of the Exchange Control Act only a bona fide tourist shall have foreign currency in his possession.

Additionally by the **Foreign Earnings (Regulation) Act 1996** as amended payment of services provided by a hotel, guesthouse or other self-catering establishment shall be made in foreign currency only. Incidental purchases are payable in local currency. The exchange of foreign currency may only be made at banks or financial institutions, authorized money dealers at the Seychelles International Airport or with cashiers in hotels.

Every person who engages in any trade, business or activity with a non–resident shall keep such accounting and other records as would sufficiently explain the transaction with the non-resident and shall cause the records to be kept in such a manner as may be directed by the Central Bank.

The Central Bank has the power to cause an inspection of the accounting and other records of any person who engages in any trade business or activity with a non-resident to ascertain whether that person is complying with the provisions of the Act.

The Central Bank also has the power to require any director, officer or employee of any bank or any other financial institution to furnish to the Central Bank such information and data as may be required. The Central Bank may periodically or at its discretion cause an inspection of the books and accounts of the financial institution to ensure compliance with the provisions of the Act.

Persons who are not resident in Seychelles would not be able to open a bank account in local currency, unless special provision is obtained from the Central Bank.

The provisions listed above would assist the Government of Seychelles in preventing and suppress the financing of terrorist acts in Seychelles.

A draft Anti-Terrorism Bill is being prepared by the Department of Legal Affairs. This Bill once enacted would criminalise the financing of terrorism and other related matters. The Bill, presently being drafted is adopting the model legislation on measures to combat terrorism provided by the Commonwealth Secretariat with appropriate modifications.

The Bill is expected to receive Presidential assent and legislative ratification before the close of 2003.

PARAGRAPH 1
(B). CRIMINALIZE THE WILFUL PROVISION OR COLLECTION, BY ANY MEANS, DIRECTLY OR INDIRECTLY OF FUNDS OF THEIR NATIONALS, OR IN THEIR TERRITORIES WITH THE INTENTION THAT THE FUNDS SHOULD BE USED, OR IN THE KNOWLEDGE THAT THEY ARE TO BE USED, IN ORDER TO CARRY OUT TERRORIST ACTS

When enacted the draft Anti-Terrorism Bill shall include these provisions.

PARAGRAPH 1
(C). FREEZES WITHOUT DELAY FUNDS AND OTHER FINANCIAL ASSETS OR ECONOMIC RESOURCES OF PERSONS WHO COMMIT OR ATTEMPT TO COMMIT, TERRORISTS ACTS OR PARTICIPATE IN OR FACILITATE THE COMMISSION OF TERRORIST ACTS; OF ENTITIES OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH PERSONS, AND OF PERSONS AND ENTITIES ACTING ON BEHALF OF, OR AT THE DIRECTION OF SUCH PERSONS OR ENTITIES, INCLUDING FUNDS DERIVED OR GENERATED FROM PROPERTY OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH PERSONS AND ASSOCIATED PERSONS AND ENTITIES

There is no specific provision for freezing funds of terrorists but there are provisions for the freezing of funds that are derived from the proceeds of crime.

However, under the provisions of the **Criminal Procedure Code Cap 54** a police officer may search persons arrested and place in safe custody all articles found upon that person. Police officers also have the power where there is responsible suspicion that a crime has been committed or where there is an investigation into any offence to seize goods and carry the goods to the court to be dealt with. If the person is convicted application would be made to the court for the forfeiture of the goods. This method may be used by police officers to freeze and confiscate assets and other financial resources of terrorists.

If financial assets or other economic resources of persons suspected to be terrorists is found in Seychelles, the Attorney General, under the Civil Procedure Rules of the Court may make application for an injunction (Mareva) against the financial assets or other resources of an alleged terrorist. This application for an injunction is a civil remedy that is available to assist the Government of Seychelles in freezing the funds of terrorists. No such application has been made to date.

The Anti Money Laundering Act 1996, provides for the restraining and forfeiture of any money or property relating to the offence of money laundering.

Funds may be restrained where a police officer investigating an offence of money laundering has reasonable grounds to believe that any money or property relating to such offence is held or is under the control of any person. An application is made to a magistrate ex parte. Where a person is convicted of an offence of money laundering and the court is satisfied that the person has derived obtained or realised, directly or indirectly, property from the commission of the offence the court may, on the application of the Attorney General make an order of forfeiture in respect of that property. Property is defined as immovable or movable property of every description, whether tangible or intangible and includes an interest in any movable and immovable property.

The Anti-Money Laundering Act also provides for monitoring orders and confiscation of proceeds after a person is convicted of an offence of money laundering and the court is satisfied that the person has derived his property from the commission of an offence. The Attorney General makes an application for forfeiture.

In addition to the provisions for freezing in the Anti-Money Laundering Act, regulation 6 of the Financial Institutions (Domestic Banking Business Regulations and regulation 6 of the Financial Institutions (Non-Domestic Banking Business) Regulations provides for the reporting to the Central Bank and furnishing full particulars of any holder of an account where the financial institution has reasonable grounds to believe that the holder of the account is conducting business affairs which are likely to be contrary to the laws of Seychelles or are likely to be detrimental to the reputation of Seychelles. This provision can be applied to suspected terrorist funds.

The Anti-Terrorism Bill when enacted would make provision for the freezing of funds and other financial assets or economic resources of persons who commit terrorist acts.

PARAGRAPH 1
(D). PROHIBITS THEIR NATIONALS AND ENTITIES WITHIN THEIR TERRITORIES FROM MAKING ANY FUNDS, FINANCIAL ASSETS OR ECONOMIC RESOURCES OR FINANCIAL OR OTHER RELATED SERVICES AVAILABLE, DIRECTLY OR INDIRECTLY, FOR THE BENEFIT OF PERSONS WHO COMMIT OR ATTEMPT TO COMMIT OR FACILITATE OR PARTICIPATE IN THE COMMISSION OF TERRORIST ACTS, OF ENTITIES OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY, BY PERSONS AND OF PERSONS AND ENTITIES ACTING ON BEHALF OF OR AT THE DIRECTION OF SUCH PERSONS

The Guidance Notes issued by the Central Bank of Seychelles in 1998 on Anti-Money Laundering Procedures would assist the Government of Seychelles in prohibiting their nationals and entities from making any funds available for the benefit of persons who commit or attempt to commit terrorist acts.

Financial institutions must know their prospective customers at the opening of an account or entering into a business relationship. Financial institutions must also be aware of the source of funds. Financial institutions must retain the supporting evidence and records for a period of at least five years. These records should contain information on the beneficial owner of the account, the volume of funds flowing through the account, the origin of the funds, the form in which the funds were offered or withdrawn, the

identity of the person undertaking the transaction, the destination of the funds and the form of instructions or authority.

Special consideration has been recommended with respect to wire transfers and where customer transfers are made. The fields for the ordering and beneficiary customers should be completed with their names and addresses. Ordering customers are also encouraged to include names and addresses of beneficiary and the sender on all transfers made by electronic means.

A financial institution is not allowed to open an account unless they know the identity of the account holder.

A report should be filed with the Central Bank where the transaction is inconsistent with the customer's known legitimate business or personal activities.

The Registrar General registers all Charitable and other Non-Profit Organizations and liaison with these organization falls under the portfolio of the President of Seychelles. In opening accounts at financial institutions, the obligation is put on the financial institution to satisfy itself of the legitimate purpose of the organization and should receive copies of the constitution of the organization. The identity of the signatories of the account must be verified.

PARAGRAPH 2. DECIDES ALSO THAT ALL STATES SHALL:
(A). REFRAIN FROM PROVIDING ANY FORM OF SUPPORT, ACTIVE OR PASSIVE, TO ENTITIES OR PERSONS INVOLVED IN TERRORIST ACTS, INCLUDING BY SUPPRESSING RECRUITMENT OF MEMBERS OF TERRORIST GROUPS AND ELIMINATING THE SUPPLY OF WEAPONS TO TERRORISTS

There is no evidence of the presence of terrorists or terrorist connections in Seychelles.

The Constitution of Seychelles guarantees the freedom of conscience, freedom of expression and freedom of assembly and association subject to the interest of defence, public safety, public morality, or public health. The Public Order Act prohibits the holding of public meeting or public procession without a permit from the Commissioner of Police. The Act further prohibits any quasi-military organization (an association of persons organized or trained or equipped for the purpose of enabling them to be employed in such a manner that such employment usurps or tends or appears to usurp the functions of the police or of the armed forces of the Republic) and any person who takes part in the control or management of such an organization or in so organizing or training shall be guilty of an offence and is liable to a fine of five thousand rupees and to imprisonment for five years.

Whenever the President, is of the opinion that it is necessary in the interests of national security or public safety for the prevention of disorder or crime he may by order prohibit any public meetings or public processions and the use of loudspeakers from vehicles for the diffusion of speeches to the public.

There is no automatic right to bear arms in Seychelles. **The Firearms and Ammunitions Act Cap 80** prohibit the purchase and possession of firearms without a licence. The penalty for possession of firearms or ammunition without a licence is imprisonment for one year of a fine of RS 2000.

Section 84 of the Penal Code Cap 158 provides an offence for possession or control of any firearm or other offensive weapon, or any ammunition, incendiary material or explosive in circumstances which raise a reasonable presumption that such firearm, offensive weapon, ammunition, incendiary material or explosive is intended to be used in a manner or for a purpose prejudicial to public order.

An offence is also committed by any person who consorts with or is found in the company of another person who in contravention of subsection (1)...in circumstances which raise a reasonable presumption that he intends to act or has recently acted with such other person in a manner and for a purpose prejudicial to public order.

Further an offence is committed by any person who...knowingly negotiates, procures arranges for, or is in any way concerned in or assists in the delivery to any person to any other person of any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, whether by way of sale, hire, gift. loan, or otherwise in circumstances which raised a reasonable presumption that he knew or believed that such firearm offensive weapon, ammunition, incendiary material or explosive was intended or likely to be used by any person in a manner or for a purpose prejudicial to public order.

Any person guilty of these offences is liable to imprisonment for seven or five years.

Ammunition, explosives, firearms, incendiary material and offensive weapon have been defined.

The Explosives Act Cap 77 defines explosives as gunpowder, nitro-glycerine, dynamite, gelignite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those herein mentioned or not, which is used or manufactured with a view to produce a practical effect by explosion; or any fuse, rocket, detonator or cartridge, and every adaptation or preparation of an explosive. The Act prohibits the manufacture, import, selling dealing in or otherwise disposing of explosives without a permit. The penalty for breach of these provisions is a fine of two thousand rupees and imprisonment for three years and the forfeiture of the explosives.

There are also further restrictions on the purchase or acquisition of explosives; the storage of explosives; the conveyance of explosives; and the possession or use of explosives. The penalty for breach of these provisions range from a fine of one thousand rupees and imprisonment for one year to a fine of three thousand rupees and imprisonment for five years.

Seychelles has signed and ratified the United Nations Convention on Transnational Organised Crime. The Three Optional Protocols are being reviewed by the Government of Seychelles to determine whether they would accede to and ratify these Protocols. The Third Protocol specifically deals with the illicit manufacture, sale and trafficking in firearms

Under the Financial Institutions Act, the identity, assets, liabilities transactions or other information of the holder of the numbered account shall be disclosed to the Central Bank or on an order of the Supreme Court made for the purpose of any enquiry or trial into or relating to the tr. fficking of narcotics and dangerous drugs, **arms trafficking** or money laundering on application by the Attorne, General on proof to the satisfaction of the court that the information relating to the identity, assets, liabilities and transactions of the holder is bona fide so required.

Further, even though section 38A of the Financial Institutions Act imposes secrecy and confidentiality provisions with respect the the non-domestic banking business of financial institutions the Supreme court may make an order for the production or disclosure to any court, tribunal, committee of inquiry or other authority in Seychelles or elsewhere on an application to that court by the Attorney General and on proof that information is bona fide required for the purposes of any enquiry or trial into or relating to the trafficking of narcotic and dangerous drugs **arms trafficking** or money laundering.

PARAGRAPH 2
(B). TAKE THE NECESSARY STEPS TO PREVENT THE COMMISSION OF TERRORIST ACTS, INCLUDING BY PROVISION OF EARLY WARNING TO OTHER STATES BY EXCHANGE OF INFORMATION

The Police Force in Seychelles works closely with INTERPOL and other international law enforcement agencies and would receive and exchange any information on the commission of terrorist acts in Seychelles.

The Police Force in Seychelles is responsible for the Immigration Department and the Transportation Securities Services at the airport and the seaport. There is no evidence of any terrorists entering Seychelles either through the airport or the seaport. The Coast Guard Services patrol the territorial waters around Seychelles for ships illegally entering Seychelles, ships cruising without permit and monitoring of fishing vessels around Seychelles. The Police Department does not posses any boats that are capable of conducting these patrols.

The Commissioner of Police holds regular conferences with the United States Naval Criminal Investigation Services to discuss international security issues.

The Police Commissioner is a member of the Eastern African Police Chiefs Committee and the Southern African Police Chiefs Association. These associations meet annually to discuss security, drug trafficking and related issues of interest to the region. There is enhanced cooperation with the Police Commissioner in Kenya as a result of the incidents of drug trafficking between the two countries.

Police Officers in Seychelles are investigating allegations of money laundering in Seychelles but have to rely on the Central Bank for assistance in these investigations.

There is an inter-agency group consisting of the Police, Customs, Immigration, Health and the Department of Civil Aviation. This group meets quarterly or more often when there is a need. This group deals with matters of national security as it affects Seychelles.

PARAGRAPH 2
(C). DENY SAFE HAVEN TO THOSE WHO FINANCE, PLANS, SUPPORT, OR COMMIT TERRORIST ACTS, OR PROVIDE SAFE HAVENS

The Anti-Terrorism Bill when enacted will make the harbouring of persons who committed terrorist acts an offence.

In the meantime the Immigration Act provides for persons to be declared as prohibited immigrants. The Director of Immigration has the responsibility for landing persons at the two ports of entry in Seychelles, at the International Airport and at the Seaport. At least one half of the complement of immigration officers is stationed at the airport. Immigration officers are stationed at the seaport when cruise passenger ships are scheduled to visit.

The Director of Immigration is advised through the Attorney General and the Ministry of Foreign Affairs of the list of suspected terrorists as they are released. These lists are given to the officers at the airport who have a duty to scrutinize these lists before landing individuals. There has been no attempt to enter Seychelles by any of the persons named on the lists produced by the United Nations or through the Executive Orders issued by the President of the United States.

As there are no non-domestic banks in Seychelles it is difficult for terrorist funds to be lodged in financial institutions in Seychelles. Any deposits made in the domestic banks are subject to the strict Know your Customer (KYC) imposed by the Central Bank. A deposit of funds can only be accepted

when the financial institution is aware of the identity of the customer and the source of funds. Compliance with these rules is monitored by the Central Bank in their on-site inspections.

PARAGRAPH 2
(D). PREVENT THOSE WHO FINANCE, PLAN, SUPPORT OR COMMIT TERRORIST ACTS FROM USING THEIR RESPECTIVE TERRITORIES FOR THOSE PURPOSES AGAINST OTHER STATES OR THEIR CITIZENS

The proposed new Anti-Terrorism Act would extend terrorism to acts committed in or outside Seychelles. At present if there is evidence of conspiracy with persons resident in Seychelles, charges may be brought against those individuals in Seychelles if it can be proved that they conspired to commit criminal acts in another country.

The provisions of the Financial Institutions Act and regulations referred to at paragraph 2(a) above would prevent Seychelles being used in the financing of terrorist activities.

Please refer to paragraph 2 (c) above for information with respect to persons being denied entry to Seychelles.

PARAGRAPH 2
(E). ENSURE THAT ANY PERSON WHO PARTICIPATES IN THE FINANCING, PLANNING OR PERPETRATION OF TERRORISTS ACTS OR IN SUPPORTING TERRORIST ACTS IS BROUGHT TO JUSTICE AND ENSURE THAT, IN ADDITION TO ANY OTHER MEASURES AGAINST THEM, SUCH TERRORIST ACTS ARE ESTABLISHED AS SERIOUS CRIMINAL OFFENCES IN DOMESTIC LAWS AND REGULATIONS AND THAT THE PUNISHMENT DULY REFLECTS THE SERIOUSNESS OF SUCH TERRORIST ACTS

The draft Anti Terrorism Bill, when enacted would ensure that any person who participates in the planning or perpetration of terrorist acts, and found guilty would be imprisoned for terms ranging from 10 years to life imprisonment.

Criminal acts that may be committed by terrorists are criminal offences in Seychelles and are severely punished. Under the Penal Code provision is made for the following offences —

- Possession of a firearm or other offensive weapon, ammunition, incendiary material or explosive — seven years;
- Murder — imprisonment for life;
- Attempt to murder — imprisonment for life;
- Suicide pact (manslaughter) — imprisonment for life;
- Attempt to injure by explosive substance — fourteen (14) years;
- Maliciously administering poison with intent to harm — fourteen (14) years;
- Unlawful wounding or unlawfully with intent to injure or annoy any person causes any poison or other noxious thing to be administered or taken by a person — seven (7) years;
- Dealing in poisonous substance in a negligent manner — six months or a fine of RS 1,000;
- Kidnapping — seven (7) years;
- Kidnapping or abducting in order to murder — ten (10) years;
- Hijacking — imprisonment for life.

Under the Firearms and Ammunition Act Cap 80 no person shall purchase, acquire or have in his possession any firearm or ammunition unless he is in possession of a licence issued by the Licensing Authority. In granting a licence the Licensing Authority must be satisfied that the applicant has a good reason for purchasing the firearm and that the applicant can be permitted to have in his possession

such firearm without danger to the public safety or to the peace. There are few firearm licences issued to private citizens in Seychelles.

PARAGRAPH 2
(F). AFFORD ONE ANOTHER THE GREATEST MEASURE OF ASSISTANCE IN CONNECTION WITH CRIMINAL INVESTIGATIONS OR CRIMINAL PROCEEDINGS RELATING TO THE FINANCING OR SUPPORT OF TERRORIST ACTS, INCLUDING ASSISTANCE IN OBTAINING EVIDENCE IN THEIR POSSESSION NECESSARY FOR THE PROCEEDINGS

In criminal investigations the Commissioner of Police collaborates with INTERPOL and other regional Police Organizations to combat global criminal activities. Additionally the Commissioner of Police meets with officials from the United States Naval Criminal Investigation Services to discuss matters of mutual concern.

The Mutual Legal Assistance Act, 1995 makes provisions for the purposes of implementing the Commonwealth Scheme relating to Mutual Assistance in Criminal Matters and to make provision with respect to mutual assistance in criminal matters between Seychelles and a foreign country other than a Commonwealth country.

The Act however does not restrict other forms of cooperation between Seychelles and a foreign country jurisdiction or organization.

This Act applies to all Commonwealth countries and in the case of a foreign country other than a Commonwealth country, where there is a treaty for bilateral mutual legal assistance in criminal matters between Seychelles and the foreign country or for the purpose of giving effect to an international treaty of which Seychelles and the foreign country are parties, or any other foreign country specified by regulations.

In addition to assisting foreign countries to obtain evidence and production of documents or other things the Central Authority may accede to requests from foreign countries for search and seizure.

There is no Mutual Legal Assistance in Criminal Matter Treaties with any country.

The Government of Seychelles assist foreign countries in obtaining documents that are public records. Additionally the Police receive and accede to requests for information through INTERPOL.

The Central Authority of Seychelles has not received any request from any Commonwealth country of from any foreign country to obtain evidence or for the production of documents or things with respect to acts of terrorism or alleged to be used in the financing of terrorism.

The Extradition Act restricts extradition to offences set out in the first Schedule of the Act. Terrorism or terrorist related acts are not included. The proposed Anti-Terrorism Act would amend the Extradition Act to include offences under that Act to be extraditable offences. There is also at present a restriction to extradition on the grounds that the offences are of a political character or offences on account of race, religion, nationality or political opinion. It is proposed to amend the Extradition Act to remove these restrictions.

Seychelles at present has an extradition treaty with the United Kingdom only. The Ministry of Foreign Affairs is presently reviewing the pre independence UK/USA Extradition Treaty with a view to its reinstatement for application to the United States.

PARAGRAPH 2
(G). PREVENT THE MOVEMENT OF TERRORISTS OR TERRORIST GROUPS BY EFFECTIVE BORDER CONTROLS AND CONTROLS ON ISSUANCE OF IDENTITY PAPERS AND TRAVEL DOCUMENTS AND THROUGH MEASURES FOR PREVENTING COUNTERFEITING, FORGERY OR FRAUDULENT USE OF IDENTITY PAPERS AND TRAVEL DOCUMENTS

The Immigration Act Cap 93 governs entry into Seychelles. Any person entering Seychelles must be cleared by an immigration officer and must produce a passport and state the object of his entry into Seychelles. If a person is considered a prohibited immigrant that person shall not be permitted to enter Seychelles.

A prohibited immigrant may be a person who has been sentenced in any country to a term of imprisonment following on his conviction for an offence and has not received a free pardon; or in the opinion of the Director is not of good character. Additionally any person whose presence in Seychelles is declared in writing by the Minister to be inimical to the public interest is deemed to be a prohibited immigrant. The persons who has been named as terrorists on the UN Security Council Lists and the list produced in the Executive Orders of the President of the United States have been given to the Director of Immigration and these persons would be considered prohibited immigrants and not allowed to enter Seychelles.

Under **the Passport Act Cap 155**, passports are issued to citizens of Seychelles. The application form for the passport must be countersigned by a person who has known the applicant personally for at least two years who is either an Member of the People's Assembly, a Member of the Central Executive Committee of the People's Progressive Front, a Judge, a Magistrate, a Barrister, an Attorney at law, a Notary Public, a Public Servant not below the Head of a Division, a Police Officer not below the rank of Assistant Superintendent, an army Officer not below the rank of Captain, a registered medical practitioner, a Minister of Religion or a Justice of the Peace. The onus is on the applicant to establish his identity and citizenship.

Citizens of Seychelles possess identity cards and these cards must be presented with the application for a passport.

A passport officer shall not issue or renew a passport where he reasonably believes that any information or statement contained in the application is false or misleading. A passport may also not be issued where the departure of the applicant from Seychelles is or was in breach of any international obligation of the Government. A passport officer may at any time seize and detain a passport where, he reasonably believes that the passport or its renewal has been obtained by a false or misleading statement or representation or any entry in the passport is false or has been inserted as a result of a false or misleading statement or representation, or the passport contains a fraudulent entry; or the photograph in the passport does not correspond to the likeness of its holder, or the passport is in the wrongful possession of any person or the passport has been stolen. Additionally where a passport officer believes that a person is in unlawful possession of a passport or that a person has in his possession a passport, or a passport containing nay endorsement, which has been obtained by a false or misleading statement or representation, he may by notice in writing require the person to deliver the passport to him within the time specified in the notice.

A person commits an offence if he forges any passport, certificate of identity or travel document; makes any fraudulent entry or fraudulently erases, fixes or removes anything in, upon or from any passport, certificate of identity or travel document; has in his possession a passport or certificate of identity or travel document which has been forged or containing a fraudulent entry or in upon, or from which anything has been fraudulently erased, fixed or removed; uses a passport, certificate of identity or travel document which has been issued to another person; for the purposes of obtaining a passport, certificate of identity or travel document, or obtaining the renewal or endorsement of any passport , makes any false or misleading statement or representation; refuses to deliver a passport, certificate of identity or travel document which has been cancelled or within the time required by the passport officer;

uses a passport, certificate of identity or travel document which has been cancelled; or being a person to whom a passport, certificate of identity or travel document has been issued, without reasonable excuse permits another person to use the passport, certificate of identity or travel document.

The penalty for the offences listed above range from 1 year, 2 years and 7 years.

Passports issued by the Government of Seychelles are machine-readable and have certain security features that make them difficult to forge. The Government is endeavouring to use digital imaging for pictures in the passports in the near future. Negotiations are now in progress to obtain the necessary equipment to produce the digital pictures, subject to budgetary constraints.

The printing and storage of passports are done in a secure environment and there is no record of passports being stolen from the Department of Immigration.

Where a person produces false passport to an immigration officer or where the immigration officer suspects that the passport has been tampered with or altered in any way the passport is held, an investigation is conducted and if it is discovered that the passport is false the person is deported. There has not been any recent case of persons presenting false passports to the immigration officer at the airport or cases of passports belonging to a citizen of Seychelles being reported stolen and fraudulently altered.

Information of false passports and other fraudulent identity documents are shared with immigration officers in other countries, especially those countries in the region. Where a person is ordered deported from Seychelles and considered to be a security threat this information is forwarded to all the airlines servicing Seychelles. Heads of Immigration in the region exchange information on passport fraud and typologies for fraudulent passports.

There are only two ports of entry in Seychelles, the International Airport and the Seaport in Mahe Island. These ports are manned by uniformed immigration and customs officers as well as police officer who process passengers baggage and cargo. All baggage of arriving passengers is X-rayed by police officers and security officers who indicate to customs officers if any baggage appear suspicious and warrant search. Where any baggage of any passenger contains firearms or any other prohibited goods these persons are turned over to the police for prosecution. Passengers leaving Mahe are subject to search and X-ray of baggage by the Aviation Security officers of the Transportation Security Division.

The seaport deals mostly with cargo on ships and in containers but there are between five or six cruise passenger ships coming into port in Mahe every year. Most of these passenger cruises are a part of organized vacations to Nairobi for safaris and then a cruise to the Seychelles Islands. Each cruise ship has approximately three to four hundred passengers.

There are no facilities at the seaport to X-ray containers coming into Seychelles. All containers are searched as a matter of course, with an additional random search procedure adopted. Customs officers conducting searches of containers and cargo at the port have discovered drugs and other undeclared items but have not discovered any arms, ammunition or explosives that may be used in a terrorist attack.

Yachts sailing the Seychelles must stop at Mahe for the purpose of clearing customs and immigration and obtaining approval to cruise among the Seychelles Islands. The coast guard patrol monitors these yachts between the islands.

The Seychelles International Airport at Mahe operates in conformity with the relevant regulations and guidelines of the International Civil Aviation Organization (ICAO). The Government of Seychelles review the Federal Aviation Authority and the UK Civil Aviation Regulations for relevance. However, in

ongoing efforts to maintain and strengthen airline and airport security the Government of Seychelles largely implement aviation procedures and regulations adopted by the European Union.

In 1997 a Transport Security Department was established under the Police to deal with all security issues at the airport and the sea port. Aviation security officers travel on some scheduled airlines to monitor the situation.

Customs officials in Seychelles are members of the World Customs Organization and the following regional organizations —

- the Southern African Development Community;
- the Common Market for Eastern and Southern Africa;
- the Indian Ocean Commission; and the
- Indian Ocean Rim Association.

Membership in these organizations enables the Comptroller of Customs to exchange information on matters of international and regional customs concern.

There has been no record of any arms or ammunition entering Seychelles through the airport or seaport.

PARAGRAPH 3. CALLS UPON ALL STATES TO:
(A). FIND WAYS OF INTENSIFYING AND ACCELERATING THE EXCHANGE OF OPERATIONAL INFORMATION ESPECIALLY REGARDING ACTIONS OF MOVEMENTS OF TERRORIST PERSONS OR NETWORKS; FORGED OR FALSIFIED TRAVEL DOCUMENTS; TRAFFIC IN ARMS, EXPLOSIVES OR SENSITIVE MATERIAL; USE OF COMMUNICATION TECHNOLOGIES BY TERRORIST GROUPS; AND THREATS POSED BY THE POSSESSION OF WEAPONS OF MASS DESTRUCTION BY TERRORIST GROUPS

A National Security Committee has been established by the Cabinet and headed by the President of Seychelles and consists of members of Cabinet and other persons co-opted from time to time. This Committee considers matters of national security. As terrorism and the financing of terrorism are matters of national and international concern these matters are considered by the Committee.

There is also a Security Unit at the Ministry of Foreign Affairs which considers all security matters and advises the Presidential Committee. The Security Unit comprises officials from the Ministry of Foreign Affairs, the Attorney General's Office, the Police, Transportation Authority, Defence Force, Coast Guard, Port Authority and the Department of Civil Aviation.

The Government of Seychelles is continuing discussions with all partners regionally and internationally to improve information sharing and investigative methods to deal with the new and emerging threat posed by terrorism, the financing of terrorism and possession of weapons of mass destruction by terrorist groups.

The Police, by making application to the Supreme Court may insert devices on telephones to listen to conservations. This procedure is rarely used and police intelligence has not indicated any present need for any application to be made with respect to persons allegedly involved in criminal activities.

PARAGRAPH 3
(B). EXCHANGE INFORMATION IN ACCORDANCE WITH INTERNATIONAL AND DOMESTIC LAW AND COOPERATE ON ADMINISTRATIVE AND JUDICIAL MATTERS TO PREVENT THE COMMISSION OF TERRORIST ACTS

See response under 2(f) above.

PARAGRAPH 3
(C). COOPERATE, PARTICULARLY THROUGH BILATERAL AND MULTILATERAL ARRANGEMENTS AND AGREEMENTS, TO PREVENT AND SUPPRESS TERRORIST ATTACKS AND TAKE ACTION AGAINST PERPETRATORS OF SUCH ACTS

Seychelles is a small country and therefore places reliance on its bilateral and multilateral relations with other countries to assist it in the fight to prevent and suppress terrorist attacks and take action against the perpetrators of such acts. Seychelles is a member of the United Nations, and the Eastern and Southern Africa Anti-Money Laundering Organization, the FATF styled regional organization. These organizations are all concerned with preventing and suppressing the financing of terrorism. The Eastern and Southern African Anti-Money Laundering Group has adopted the FATF 40 Recommendations on Money Laundering and recently has adopted the FATF 8 Special Recommendations on Terrorism Financing.

Seychelles is a party to seven (7) of the United Nations Counter Terrorism Conventions. The Anti-Terrorism Bill when enacted will incorporate the provisions of those conventions.

PARAGRAPH 3
(D). BECOME PARTIES AS SOON AS POSSIBLE TO THE RELEVANT INTERNATIONAL CONVENTIONS AND PROTOCOLS RELATING TO TERRORISM, INCLUDING THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM OF 9 DECEMBER 1999

The Republic of Seychelles is a party to the following international conventions and protocols relating to terrorism —

(i) Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963;
(ii) Convention for the Suppression of Unlawful Seizure of Aircraft, 1970;
(iii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;
(iv) Convention on the prevention and Punishment of Offences against Internationally Protected Persons, Including Diplomatic Agents, 1973;
(v) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988;
(vi) Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms Located on the Continental Shelf, 1988;
(vii) International Convention For the Suppression of the Financing of Terrorism, 1999.

The other conventions namely –

(i) The International Convention Against the Taking of Hostages, 1979;
(ii) Convention on the Physical Protection of Nuclear Material, 1979;
(iii) Convention on the Marking of Plastic Explosives for the Purposes of Detection, 1991;

(iv) International Convention for the Suppression of Terrorist Bombings, 1999;

are all under active consideration by the Cabinet of Seychelles.

Additionally Seychelles has recently ratified the International Convention against Transnational Organized Crime and is reviewing the three Protocols to the Convention for accession and ratification.

Seychelles is a member of the Organization of African Unity (OAU). The OAU recently implemented a Convention on the Prevention and Combating of Terrorism. The Government of Seychelles is actively reviewing accession and ratification of this Convention.

PARAGRAPH 3
(E). INCREASE COOPERATION AND FULLY IMPLEMENT THE RELEVANT INTERNATIONAL CONVENTIONS AND PROTOCOLS RELATING TO TERRORISM AND SECURITY COUNCIL RESOLUTIONS 1269 (1999) AND 1368 (2001)

The Government of Seychelles will continue to cooperate with other states in combating terrorism. The Government has ratified the UN International Convention for the Suppression of Terrorism and shall soon pass legislation to criminalise terrorism, terrorist related acts sand other matters related thereto.

PARAGRAPH 3
(F). TAKE APPROPRIATE MEASURES IN CONFORMITY WITH THE RELEVANT PROVISIONS OF NATIONAL AND INTERNATIONAL LAW, INCLUDING INTERNATIONAL STANDARDS OF HUMAN RIGHTS BEFORE GRANTING REFUGEE STATUS, FOR THE PURPOSE OF ENSURING THAT THE ASYLUM SEEKER HAS NOT PLANNED, FACILITATED OR PARTICIPATED IN THE COMMISSION OF TERRORIST ACTS

The Government of Seychelles is a party to the 1951 Convention and Protocol relating to the Status of Refugees. This Convention excludes persons from obtaining refugee status if they have been involved in serious non-political crimes or acts against the purpose and principles of the United Nations. Persons involved in acts of terrorism would be excluded from refugee status in Seychelles under this Convention.

There are no domestic provisions dealing with the granting of refugee status is Seychelles. No proper application has been made for refugee status and therefore no application has been granted.

PARAGRAPH 3
(G). ENSURE, IN CONFORMITY WITH INTERNATIONAL LAW, THAT REFUGEE STATUS IS NOT ABUSED BY THE PERPETRATORS, ORGANIZERS OF FACILITATORS OF TERRORIST ACTS, AND THAT CLAIMS OF POLITICAL MOTIVATION ARE NOT REQUIRED AS GROUNDS FROM REFUSING REQUESTS FOR THE EXTRADITION OF ALLEGED TERRORISTS

Article 33(2) of the 1951 Convention and Protocol relating to the Status of Refugees allows for the removal of persons who have obtained refugee status and who subsequently engage in very serious crimes and if they constitute a danger to the security of Seychelles to be removed to their country of origin even if they fear persecution there.

As no person has been granted refugee status in Seychelles, this process has not been abused.

The draft Anti-Terrorism Bill would provide for the extradition of persons alleged to have committed terrorist acts.

PARAGRAPH 4. NOTES WITH CONCERN THE CLOSE CONNECTION BETWEEN INTERNATIONAL TERRORISM AND TRANSNATIONAL ORGANIZED CRIME, ILLICIT DRUGS, MONEY LAUNDERING, ILLEGAL ARMS-TRAFFICKING AND ILLEGAL MOVEMENT OF NUCLEAR, CHEMICAL, BIOLOGICAL AND OTHER POTENTIALLY DEADLY MATERIALS, AND IN THIS REGARD EMPHASIZES THE NEED TO ENHANCE COORDINATION OF EFFORTS ON NATIONAL, SUBREGIONAL, REGIONAL AND INTERNATIONAL LEVELS IN ORDER TO STRENGTHEN A GLOBAL RESPONSE TO THIS SEROUS CHALLENGE AND THREAT TO INTERNATIONAL SECURITY

Seychelles is committed to strengthening cooperation with its partners in various fora in the global campaign against terrorism. Seychelles is a member of a number of regional and international organisations, which deals with international security issues. Seychelles is a member of the Eastern and Southern African anti Money Laundering Group. Other international and regional organizations include:

- Southern African Development Community (SADC);
- Common Market for Eastern and Southern Africa (COMESA);
- Indian Ocean Commission;
- The International Monetary Fund (IMF);
- The World Bank;
- The United Nations.

TECHNICAL ASSISTANCE

The Government of Seychelles is in need of financial and technical to raise its capacity to deal with terrorism issues:

Capacity Building: Strengthening of Human resources (Police, Airport and Port Security, Immigration Officers, Bank personnel, other Security Officers in investigation techniques, anti money laundering and other fraud detection, monitoring and surveillance.

Legislation and Reporting requirements: Strengthening of the Governments technical capacity to meet ongoing United Nations Counter Terrorism measures, including national implementation of Anti terrorism Treaties.

Capital equipment: Strengthening the Police Force capacity to provide adequate surveillance of coastal waters, utilising patrol vessels, surveillance and communications equipment.

Strengthening the immigration capacity to detect fraudulent documents/passports, utilising ultra violet lights and optical passport readers.

Strengthening of points of entry capacity with updated baggage and body screening equipment.

Strengthening of technology for exchange of information and investigative resources.

21 March 2003

Attachments

1. The Constitution of Seychelles;
2. The Anti-Money Laundering Act, 1996;
3. The Central Bank Act Cap 26;
4. The Financial Institutions Act Cap 79;
5. The International Business Companies Act, 1994;
6. The International Trust Act, 1994;
7. The Seychelles International Business Authority Act, 1994;
8. The Exchange Control Act Cap 76;
9. The Immigration Decree Cap 93;
10. The Passport Act Cap 155;
11. The Mutual Legal Assistance Act 1995;
12. The Extradition Act 1991;
13. The Penal Code Cap 158;
14. The Criminal Procedure Code Cap 54;
15. The Firearms and Ammunition Act Cap 80;
16. The Explosives Act Cap 77;
17. The Foreign Earnings (Regulation) Act Cap 84A;
18. The Public Order Act Cap 194;
19. Control and Protection of Clients Accounts Act Cap 44.